

AMENDMENTS TO LB249

Introduced by Dubas

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. Section 60-462, Revised Statutes Supplement,
4 2013, is amended to read:

5 60-462 Sections 60-462 to 60-4,189 and section 4 of this
6 act shall be known and may be cited as the Motor Vehicle Operator's
7 License Act.

8 Sec. 2. Section 60-463, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 60-463 For purposes of the Motor Vehicle Operator's
11 License Act, the definitions found in sections 60-463.01 to 60-478
12 and section 4 of this act shall be used.

13 Sec. 3. Section 60-465, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 60-465 (1) Commercial motor vehicle means a motor vehicle
16 or combination of motor vehicles used in commerce to transport
17 passengers or property if the motor vehicle:

18 (a) Has a gross combination weight rating of eleven
19 thousand seven hundred ninety-four kilograms or more (twenty-six
20 thousand one pounds or more) inclusive of a towed unit with a
21 gross vehicle weight rating of more than four thousand five hundred
22 thirty-six kilograms (ten thousand pounds);

23 (b) Has a gross vehicle weight rating of eleven thousand

1 seven hundred ninety-four or more kilograms (twenty-six thousand
2 one pounds or more);

3 (c) Is designed to transport sixteen or more passengers,
4 including the driver; or

5 (d) Is of any size and is used in the transportation of
6 materials found to be hazardous for the purposes of the federal
7 Hazardous Materials Transportation Act and which require the motor
8 vehicle to be placarded under 49 C.F.R. part 172, subpart F.

9 (2) Commercial motor vehicle does not include:

10 (a) a covered farm vehicle. This subdivision terminates
11 on October 1, 2015; ~~other than a combination of truck-tractors~~
12 ~~and semitrailers,~~ which is (i) controlled and operated by a
13 farmer, including operation by employees or family members of the
14 farmer, (ii) used to transport either agricultural products, farm
15 machinery, farm supplies, or both, to or from a farm or ranch,
16 (iii) not used in the operations of a common or contract motor
17 carrier, and (iv) used within one hundred fifty miles of the
18 farmer's farm or ranch,

19 (b) any Any recreational vehicle as defined in section
20 60-347 or motor vehicle towing a cabin trailer as defined in
21 sections 60-314 and 60-339;;

22 (c) any Any emergency vehicle operated by a public or
23 volunteer fire department;; or

24 (d) any Any motor vehicle owned or operated by the
25 United States Department of Defense or Nebraska National Guard
26 when such motor vehicle is driven by persons identified in section
27 60-4,131.01.

1 Sec. 4. (1) Covered farm vehicle means a motor vehicle,
2 including an articulated motor vehicle:

3 (a) That:

4 (i) Is traveling in the state in which the vehicle is
5 registered or another state;

6 (ii) Is operated by:

7 (A) A farm owner or operator;

8 (B) A ranch owner or operator; or

9 (C) An employee or family member of an individual
10 specified in subdivision (1)(a)(ii)(A) or (1)(a)(ii)(B) of this
11 section;

12 (iii) Is transporting to or from a farm or ranch:

13 (A) Agricultural commodities;

14 (B) Livestock; or

15 (C) Machinery or supplies;

16 (iv) Except as provided in subsection (2) of this
17 section, is not used in the operations of a for-hire motor
18 carrier; and

19 (v) Is equipped with a special license plate or other
20 designation by the state in which the vehicle is registered to
21 allow for identification of the vehicle as a farm vehicle by law
22 enforcement personnel; and

23 (b) That has a gross vehicle weight rating or gross
24 vehicle weight, whichever is greater, that is:

25 (i) Less than twenty-six thousand one pounds; or

26 (ii) Twenty-six thousand one pounds or more and is
27 traveling within the state or within one hundred fifty air miles

1 of the farm or ranch with respect to which the vehicle is being
2 operated.

3 (2) Covered farm vehicle includes a motor vehicle that
4 meets the requirements of subsection (1) of this section, except
5 for subdivision (1)(a)(iv) of this section, and:

6 (a) Is operated pursuant to a crop share farm lease
7 agreement;

8 (b) Is owned by a tenant with respect to that agreement;
9 and

10 (c) Is transporting the landlord's portion of the crops
11 under that agreement.

12 (3) Covered farm vehicle does not include:

13 (a) A combination of truck-tractor and semitrailer which
14 is operated by a person under eighteen years of age; or

15 (b) A combination of truck-tractor and semitrailer which
16 is used in the transportation of materials found to be hazardous
17 for the purposes of the federal Hazardous Materials Transportation
18 Act and which require the combination to be placarded under 49
19 C.F.R. part 172, subpart F.

20 Sec. 5. Section 75-362, Revised Statutes Cumulative
21 Supplement, 2012, is amended to read:

22 75-362 For purposes of sections 75-362 to 75-369.07,
23 unless the context otherwise requires:

24 (1) Accident means:

25 (a) Except as provided in subdivision (b) of this
26 subdivision, an occurrence involving a commercial motor vehicle
27 operating on a highway in interstate or intrastate commerce which

1 results in:

2 (i) A fatality;

3 (ii) Bodily injury to a person who, as a result of the
4 injury, immediately receives medical treatment away from the scene
5 of the accident; or

6 (iii) One or more motor vehicles incurring disabling
7 damage as a result of the accident, requiring the motor vehicles to
8 be transported away from the scene by a tow truck or other motor
9 vehicle.

10 (b) The term accident does not include:

11 (i) An occurrence involving only boarding and alighting
12 from a stationary motor vehicle; or

13 (ii) An occurrence involving only the loading or
14 unloading of cargo;

15 (2) Bulk packaging means a packaging, other than a vessel
16 or a barge, including a transport vehicle or freight container, in
17 which hazardous materials are loaded with no intermediate form of
18 containment and which has:

19 (a) A maximum capacity greater than one hundred nineteen
20 gallons as a receptacle for a liquid;

21 (b) A maximum net mass greater than eight hundred
22 eighty-two pounds and a maximum capacity greater than one hundred
23 nineteen gallons as a receptacle for a solid; or

24 (c) A water capacity greater than one thousand pounds as
25 a receptacle for a gas as defined in 49 C.F.R. 173.115;

26 (3) Cargo tank means a bulk packaging that:

27 (a) Is a tank intended primarily for the carriage

1 of liquids or gases and includes appurtenances, reinforcements,
2 fittings, and closures;

3 (b) Is permanently attached to or forms a part of a
4 motor vehicle or is not permanently attached to a motor vehicle
5 but which, by reason of its size, construction, or attachment to a
6 motor vehicle, is loaded or unloaded without being removed from the
7 motor vehicle; and

8 (c) Is not fabricated under a specification for
9 cylinders, intermediate bulk containers, multi-unit tank-car tanks,
10 portable tanks, or tank cars;

11 (4) Cargo tank motor vehicle means a motor vehicle with
12 one or more cargo tanks permanently attached to or forming an
13 integral part of the motor vehicle;

14 (5) Commercial enterprise means any business activity
15 relating to or based upon the production, distribution, or
16 consumption of goods or services;

17 (6) Commercial motor vehicle means any self-propelled or
18 towed motor vehicle used on a highway in interstate commerce or
19 intrastate commerce to transport passengers or property when the
20 vehicle:

21 (a) Has a gross vehicle weight rating or gross
22 combination weight rating or gross vehicle weight or gross
23 combination weight of ten thousand one pounds or more, whichever
24 is greater;

25 (b) Is designed or used to transport more than eight
26 passengers, including the driver, for compensation;

27 (c) Is designed or used to transport more than fifteen

1 passengers, including the driver, and is not used to transport
2 passengers for compensation; or

3 (d) Is used in transporting material found to be
4 hazardous and such material is transported in a quantity requiring
5 placarding pursuant to section 75-364;

6 (7) Compliance review means an onsite examination of
7 motor carrier operations, such as drivers' hours of service,
8 maintenance and inspection, driver qualification, commercial
9 driver's license requirements, financial responsibility, accidents,
10 hazardous materials, and other safety and transportation records
11 to determine whether a motor carrier meets the safety fitness
12 standard. A compliance review may be conducted in response to
13 a request to change a safety rating, to investigate potential
14 violations of safety regulations by motor carriers, or to
15 investigate complaints or other evidence of safety violations. The
16 compliance review may result in the initiation of an enforcement
17 action with penalties;

18 (8) (a) Covered farm vehicle means a motor vehicle,
19 including an articulated motor vehicle:

20 (i) That:

21 (A) Is traveling in the state in which the vehicle is
22 registered or another state;

23 (B) Is operated by:

24 (I) A farm owner or operator;

25 (II) A ranch owner or operator; or

26 (III) An employee or family member of an individual
27 specified in subdivision (8) (a) (i) (B) (I) or (8) (a) (i) (B) (II) of

1 this section;

2 (C) Is transporting to or from a farm or ranch;

3 (I) Agricultural commodities;

4 (II) Livestock; or

5 (III) Machinery or supplies;

6 (D) Except as provided in subdivision (8)(b) of this

7 section, is not used in the operations of a for-hire motor carrier;

8 and

9 (E) Is equipped with a special license plate or other

10 designation by the state in which the vehicle is registered to

11 allow for identification of the vehicle as a farm vehicle by law

12 enforcement personnel; and

13 (ii) That has a gross vehicle weight rating or gross

14 vehicle weight, whichever is greater, that is:

15 (A) Less than twenty-six thousand one pounds; or

16 (B) Twenty-six thousand one pounds or more and is

17 traveling within the state or within one hundred fifty air miles

18 of the farm or ranch with respect to which the vehicle is being

19 operated.

20 (b) Covered farm vehicle includes a motor vehicle that

21 meets the requirements of subdivision (8)(a) of this section,

22 except for subdivision (8)(a)(i)(D) of this section, and:

23 (i) Is operated pursuant to a crop share farm lease

24 agreement;

25 (ii) Is owned by a tenant with respect to that agreement;

26 and

27 (iii) Is transporting the landlord's portion of the crops

1 under that agreement.

2 (c) Covered farm vehicle does not include:

3 (i) A combination of truck-tractor and semitrailer which
4 is operated by a person under eighteen years of age; or

5 (ii) A combination of truck-tractor and semitrailer which
6 is used in the transportation of materials found to be hazardous
7 for the purposes of the federal Hazardous Materials Transportation
8 Act and which require the combination to be placarded under 49
9 C.F.R. part 172, subpart F;

10 ~~(8)~~ (9) Disabling damage means damage which precludes
11 departure of a motor vehicle from the scene of the accident in its
12 usual manner in daylight after simple repairs.

13 (a) Inclusions: Damage to motor vehicles that could have
14 been driven but would have been further damaged if so driven.

15 (b) Exclusions:

16 (i) Damage which can be remedied temporarily at the scene
17 of the accident without special tools or parts;

18 (ii) Tire disablement without other damage even if no
19 spare tire is available;

20 (iii) Headlight or taillight damage; and

21 (iv) Damage to turnsignals, horn, or windshield wipers
22 which makes them inoperative;

23 ~~(9)~~ (10) Driver means any person who operates any
24 commercial motor vehicle;

25 ~~(10)~~ (11) Elevated temperature material means a material
26 which, when offered for transportation or transported in a bulk
27 packaging:

1 (a) Is in a liquid phase and at a temperature at or above
2 two hundred twelve degrees Fahrenheit;

3 (b) Is in a liquid phase with a flash point at or above
4 one hundred degrees Fahrenheit that is intentionally heated and
5 offered for transportation or transported at or above its flash
6 point; or

7 (c) Is in a solid phase and at a temperature at or above
8 four hundred sixty-four degrees Fahrenheit;

9 ~~(11)~~ (12) Employee means any individual, other than
10 an employer, who is employed by an employer and who in the
11 course of his or her employment directly affects commercial motor
12 vehicle safety. Such term includes a driver of a commercial motor
13 vehicle, including an independent contractor while in the course
14 of operating a commercial motor vehicle, a mechanic, and a freight
15 handler. Such term does not include an employee of the United
16 States, any state, any political subdivision of a state, or any
17 agency established under a compact between states and approved by
18 the Congress of the United States who is acting within the course
19 of such employment;

20 ~~(12)~~ (13) Employer means any person engaged in a business
21 affecting commerce who owns or leases a commercial motor vehicle
22 in connection with that business or assigns employees to operate
23 it. Such term does not include the United States, any state, any
24 political subdivision of a state, or an agency established under
25 a compact between states approved by the Congress of the United
26 States;

27 ~~(13)~~ (14) Exempt motor carrier means a person engaged

1 in transportation exempt from economic regulation under 49 U.S.C.
2 13506. An exempt motor carrier is subject to the safety regulations
3 adopted in sections 75-362 to 75-369.07;

4 ~~(14)~~ (15) Farm vehicle driver means a person who drives
5 only a commercial motor vehicle that is controlled and operated by
6 a farmer as a private motor carrier of property;

7 ~~(15)~~ (16) Farmer means any person who operates a farm
8 or is directly involved in the cultivation of land, crops, or
9 livestock which:

10 (a) Are owned by that person; or

11 (b) Are under the direct control of that person;

12 ~~(16)~~ (17) Fatality means any injury which results in the
13 death of a person at the time of the motor vehicle accident or
14 within thirty days after the accident;

15 ~~(17)~~ (18) Fertilizer and agricultural chemical
16 application and distribution equipment means:

17 (a) Self-propelled or towed equipment, designed and used
18 exclusively to apply commercial fertilizer, as that term is
19 defined in section 81-2,162.02, chemicals, or related products
20 to agricultural soil and crops; or

21 (b) Towed equipment designed and used exclusively to
22 carry commercial fertilizer, as that term is defined in section
23 81-2,162.02, chemicals, or related products for use on agricultural
24 soil and crops, which are equipped with implement or floatation
25 tires;

26 ~~(18)~~ (19) For-hire motor carrier means a person engaged
27 in the transportation of goods or passengers for compensation;

1 ~~(19)~~ (20) Gross combination weight means the sum of the
2 empty weight of a motor vehicle plus the total weight of any load
3 carried thereon and the empty weight of the towed unit or units
4 plus the total weight of any load carried on such towed unit or
5 units;

6 ~~(20)~~ (21) Gross combination weight rating means the
7 value specified by the manufacturer as the loaded weight of a
8 combination (articulated) motor vehicle. In the absence of a value
9 specified by the manufacturer, gross combination weight rating will
10 be determined by adding either the gross vehicle weight rating or
11 gross vehicle weight of the motor vehicle plus the gross vehicle
12 weight rating or gross vehicle weight of the towed unit or units;

13 ~~(21)~~ (22) Gross vehicle weight means the sum of the empty
14 weight of a motor vehicle plus the total weight of any load carried
15 thereon;

16 ~~(22)~~ (23) Gross vehicle weight rating means the value
17 specified by the manufacturer as the loaded weight of a single
18 motor vehicle. In the absence of such value specified by the
19 manufacturer or the absence of any marking of such value on the
20 vehicle, the gross vehicle weight rating shall be determined from
21 the sum of the axle weight ratings of the vehicle or the sum of
22 the tire weight ratings as marked on the sidewall of the tires,
23 whichever is greater. In the absence of any tire sidewall marking,
24 the tire weight ratings shall be determined for the specified tires
25 from any of the publications of any of the organizations listed in
26 49 C.F.R. 571.119;

27 ~~(23)~~ (24) Hazardous material means a substance or

1 material that the Secretary of the United States Department of
2 Transportation has determined is capable of posing an unreasonable
3 risk to health, safety, and property when transported in commerce
4 and has designated as hazardous under 49 U.S.C. 5103. The term
5 includes hazardous substances, hazardous wastes, marine pollutants,
6 elevated temperature materials, materials designated as hazardous
7 in the Hazardous Materials Table, 49 C.F.R. 172.101, and materials
8 that meet the defining criteria for hazard classes and divisions
9 in 49 C.F.R. part 173;

10 ~~(24)~~ (25) Hazardous substance means a material, including
11 its mixtures and solutions, that is listed in 49 C.F.R. 172.101,
12 Appendix A, List Of Hazardous Substances and Reportable Quantities,
13 and is in a quantity, in one package, which equals or exceeds the
14 reportable quantity listed in 49 C.F.R. 172.101, Appendix A. This
15 definition does not apply to petroleum products that are lubricants
16 or fuels or to mixtures or solutions of hazardous substances if
17 in a concentration less than that shown in the table in 49 C.F.R.
18 171.8 under the definition of hazardous substance based on the
19 reportable quantity specified for the materials listed in 49 C.F.R.
20 172.101, Appendix A;

21 ~~(25)~~ (26) Hazardous waste means any material that is
22 subject to the hazardous waste manifest requirements of the United
23 States Environmental Protection Agency specified in 40 C.F.R. 262;

24 ~~(26)~~ (27) Highway means the entire width between the
25 boundary limits of any street, road, avenue, boulevard, or way
26 which is publicly maintained when any part thereof is open to the
27 use of the public for purposes of vehicular travel;

1 ~~(27)~~ (28) Interstate commerce means trade, traffic,
2 or transportation provided in the furtherance of a commercial
3 enterprise in the United States:

4 (a) Between a place in a state and a place outside of
5 such state, including a place outside of the United States;

6 (b) Between two places in a state through another state
7 or a place outside of the United States; or

8 (c) Between two places in a state as part of trade,
9 traffic, or transportation originating or terminating outside the
10 state or the United States;

11 ~~(28)~~ (29) Intrastate commerce means any trade, traffic,
12 or transportation provided in the furtherance of a commercial
13 enterprise between any place in the State of Nebraska and any other
14 place in Nebraska and not through any other state;

15 ~~(29)~~ (30) Marine pollutant means a material which is
16 listed in the Hazardous Materials Table, 49 C.F.R. 172.101,
17 Appendix B, as a marine pollutant (see 49 C.F.R. 171.4 for
18 applicability to marine pollutants) and, when in a solution or
19 mixture of one or more marine pollutants, is packaged in a
20 concentration which equals or exceeds:

21 (a) Ten percent by weight of the solution or mixture for
22 materials listed in 49 C.F.R. 172.101, Appendix B; or

23 (b) One percent by weight of the solution or mixture for
24 materials that are identified as severe marine pollutants in the
25 Hazardous Materials Table, 49 C.F.R. 172.101, Appendix B;

26 ~~(30)~~ (31) Motor carrier means a for-hire motor
27 carrier or a private motor carrier. The term includes a

1 motor carrier's agents, officers, and representatives as well
2 as employees responsible for hiring, supervising, training,
3 assigning, or dispatching of drivers and employees concerned with
4 the installation, inspection, and maintenance of motor vehicle
5 equipment or accessories. This definition includes the terms
6 employer and exempt motor carrier;

7 ~~(31)~~ (32) Motor vehicle means any vehicle, truck,
8 truck-tractor, trailer, or semitrailer propelled or drawn by
9 mechanical power except (a) farm tractors, (b) vehicles which
10 run only on rails or tracks, and (c) road and general-purpose
11 construction and maintenance machinery which by design and
12 function is obviously not intended for use on a public highway,
13 including, but not limited to, motor scrapers, earthmoving
14 equipment, backhoes, trenchers, motor graders, compactors,
15 tractors, bulldozers, bucket loaders, ditchdigging apparatus,
16 asphalt spreaders, leveling graders, power shovels, and crawler
17 tractors;

18 ~~(32)~~ (33) Nonbulk packaging means a packaging which has:

19 (a) A maximum capacity of one hundred nineteen gallons or
20 less as a receptacle for a liquid;

21 (b) A maximum net mass of eight hundred eighty-two pounds
22 or less and a maximum capacity of one hundred nineteen gallons or
23 less as a receptacle for a solid; or

24 (c) A water capacity of one thousand pounds or less as a
25 receptacle for a gas as defined in 49 C.F.R. 173.115;

26 ~~(33)~~ (34) Out-of-service order means a declaration by
27 an authorized enforcement officer of a federal, state, Canadian,

1 Mexican, or local jurisdiction that a driver, a commercial motor
2 vehicle, or a motor carrier operation is out of service pursuant
3 to 49 C.F.R. 386.72, 392.5, 392.9a, 395.13, or 396.9, or compatible
4 laws or the North American Uniform Out-of-Service Criteria;

5 ~~(34)~~ (35) Packaging means a receptacle and any other
6 components or materials necessary for the receptacle to perform
7 its containment function in conformance with the minimum packing
8 requirements of Title 49 of the Code of Federal Regulations. For
9 radioactive materials packaging, see 49 C.F.R. 173.403;

10 ~~(35)~~ (36) Person means any individual, partnership,
11 association, corporation, business trust, or any other organized
12 group of individuals;

13 (37) Planting and harvesting season means the period
14 beginning on January 1 up to and including December 31 of each
15 calendar year;

16 ~~(36)~~ (38) Principal place of business means the
17 single location designated by the motor carrier, normally its
18 headquarters, for purposes of identification. The motor carrier
19 must make records required by the regulations referred to in
20 sections ~~75-363~~ 75-362 to 75-369.07 and ~~this section~~ available for
21 inspection at this location within forty-eight hours, Saturdays,
22 Sundays, and state or federal holidays excluded, after a request
23 has been made by an officer of the Nebraska State Patrol;

24 ~~(37)~~ (39) Private motor carrier means a person who
25 provides transportation of property or passengers by commercial
26 motor vehicle and is not a for-hire motor carrier;

27 ~~(38)~~ (40) Safety audit means an examination of a

1 motor carrier's operations to provide educational and technical
2 assistance on drivers' hours of service, maintenance and
3 inspection, driver qualification, commercial driver's license
4 requirements, financial responsibility, accidents, hazardous
5 materials, and other safety and transportation records to determine
6 whether a motor carrier meets the safety fitness standard. The
7 purpose of a safety audit is to gather critical safety data needed
8 to make an assessment of the carrier's safety performance and basic
9 safety management controls. Safety audits do not result in safety
10 ratings; and

11 ~~(39)~~ (41) Tank means a container, consisting of a shell
12 and heads, that forms a pressure-tight vessel having openings
13 designed to accept pressure-tight fittings or closures, but
14 excludes any appurtenances, reinforcements, fittings, or closures.

15 Sec. 6. Section 75-363, Revised Statutes Supplement,
16 2013, is amended to read:

17 75-363 (1) The parts, subparts, and sections of Title
18 49 of the Code of Federal Regulations listed below, as modified
19 in this section, or any other parts, subparts, and sections
20 referred to by such parts, subparts, and sections, in existence and
21 effective as of January 1, ~~2013~~, 2014, are adopted as Nebraska law.

22 (2) Except as otherwise provided in this section, the
23 regulations shall be applicable to:

24 (a) All motor carriers, drivers, and vehicles to which
25 the federal regulations apply; and

26 (b) All motor carriers transporting persons or property
27 in intrastate commerce to include:

1 (i) All vehicles of such motor carriers with a gross
2 vehicle weight rating, gross combination weight rating, gross
3 vehicle weight, or gross combination weight over ten thousand
4 pounds;

5 (ii) All vehicles of such motor carriers designed or
6 used to transport more than eight passengers, including the driver,
7 for compensation, or designed or used to transport more than
8 fifteen passengers, including the driver, and not used to transport
9 passengers for compensation;

10 (iii) All vehicles of such motor carriers transporting
11 hazardous materials required to be placarded pursuant to section
12 75-364; and

13 (iv) All drivers of such motor carriers if the drivers
14 are operating a commercial motor vehicle as defined in section
15 60-465 which requires a commercial driver's license.

16 (3) The Legislature hereby adopts, as modified in this
17 section, the following parts of Title 49 of the Code of Federal
18 Regulations:

19 (a) Part 382 - CONTROLLED SUBSTANCES AND ALCOHOL USE AND
20 TESTING;

21 (b) Part 385 - SAFETY FITNESS PROCEDURES;

22 (c) Part 386 - RULES OF PRACTICE FOR MOTOR CARRIER,
23 INTERMODAL EQUIPMENT PROVIDER, BROKER, FREIGHT FORWARDER, AND
24 HAZARDOUS MATERIALS PROCEEDINGS;

25 (d) Part 387 - MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY
26 FOR MOTOR CARRIERS;

27 (e) Part 390 - FEDERAL MOTOR CARRIER SAFETY REGULATIONS;

1 GENERAL;

2 (f) Part 391 - QUALIFICATIONS OF DRIVERS AND LONGER
3 COMBINATION VEHICLE (LCV) DRIVER INSTRUCTORS;

4 (g) Part 392 - DRIVING OF COMMERCIAL MOTOR VEHICLES;

5 (h) Part 393 - PARTS AND ACCESSORIES NECESSARY FOR SAFE
6 OPERATION;

7 (i) Part 395 - HOURS OF SERVICE OF DRIVERS;

8 (j) Part 396 - INSPECTION, REPAIR, AND MAINTENANCE;

9 (k) Part 397 - TRANSPORTATION OF HAZARDOUS MATERIALS;
10 DRIVING AND PARKING RULES; and

11 (l) Part 398 - TRANSPORTATION OF MIGRANT WORKERS.

12 (4) The provisions of subpart E - Physical Qualifications
13 And Examinations of 49 C.F.R. part 391 - QUALIFICATIONS OF DRIVERS
14 AND LONGER COMBINATION VEHICLE (LCV) DRIVER INSTRUCTORS shall not
15 apply to any driver subject to this section who: (a) Operates a
16 commercial motor vehicle exclusively in intrastate commerce; and
17 (b) holds, or has held, a commercial driver's license issued by
18 this state prior to July 30, 1996.

19 (5) The regulations adopted in subsection (3) of this
20 section shall not apply to farm trucks registered pursuant to
21 section 60-3,146 with a gross weight of sixteen tons or less. The
22 following parts and sections of 49 C.F.R. chapter III shall not
23 apply to drivers of farm trucks registered pursuant to section
24 60-3,146 and operated solely in intrastate commerce:

25 (a) All of part 391;

26 (b) Section 395.8 of part 395; and

27 (c) Section 396.11 of part 396.

1 (6) The following parts and subparts of 49 C.F.R. chapter
2 III shall not apply to the operation of covered farm vehicles:

3 (a) Part 382 - CONTROLLED SUBSTANCES AND ALCOHOL USE AND
4 TESTING;

5 (b) Part 391, subpart E - Physical Qualifications and
6 Examinations;

7 (c) Part 395 - HOURS OF SERVICE OF DRIVERS; and

8 (d) Part 396 - INSPECTION, REPAIR, AND MAINTENANCE.

9 ~~(6)~~ (7) Part 393 - PARTS AND ACCESSORIES NECESSARY FOR
10 SAFE OPERATION and Part 396 - INSPECTION, REPAIR, AND MAINTENANCE
11 shall not apply to fertilizer and agricultural chemical application
12 and distribution equipment transported in units with a capacity of
13 three thousand five hundred gallons or less.

14 ~~(7)~~ (8) For purposes of this section, intrastate motor
15 carriers shall not include any motor carrier or driver excepted
16 from 49 C.F.R. chapter III by section 390.3(f) of part 390.

17 ~~(8)~~ ~~(a)~~ (9) (a) Part 395 - HOURS OF SERVICE OF DRIVERS
18 shall apply to motor carriers and drivers who engage in intrastate
19 commerce as defined in section 75-362, except that no motor carrier
20 who engages in intrastate commerce shall permit or require any
21 driver used by it to drive nor shall any driver drive:

22 (i) More than twelve hours following eight consecutive
23 hours off duty; or

24 (ii) For any period after having been on duty sixteen
25 hours following eight consecutive hours off duty.

26 (b) No motor carrier who engages in intrastate commerce
27 shall permit or require a driver of a commercial motor vehicle,

1 regardless of the number of motor carriers using the driver's
2 services, to drive, nor shall any driver of a commercial motor
3 vehicle drive, for any period after:

4 (i) Having been on duty seventy hours in any seven
5 consecutive days if the employing motor carrier does not operate
6 every day of the week; or

7 (ii) Having been on duty eighty hours in any period of
8 eight consecutive days if the employing motor carrier operates
9 motor vehicles every day of the week.

10 ~~(9)~~ (10) Part 395 - HOURS OF SERVICE OF DRIVERS, as
11 adopted in subsections (3) and ~~(8)~~ (9) of this section, shall
12 not apply to drivers transporting agricultural commodities or farm
13 supplies for agricultural purposes ~~when the transportation of such~~
14 ~~commodities or supplies occurs within a one-hundred-air-mile radius~~
15 ~~of the source of the commodities or the distribution point for~~
16 ~~the supplies when such transportation occurs during the period~~
17 ~~beginning on February 15 up to and including December 15 of each~~
18 ~~calendar year.~~ during planting and harvesting season when:

19 (a) The transportation of such agricultural commodities
20 is from the source of the commodities to a location within a one
21 hundred fifty air-mile radius of the source of the commodities;

22 (b) The transportation of such farm supplies is from a
23 wholesale or retail distribution point of the farm supplies to a
24 farm or other location where the farm supplies are intended to be
25 used which is within a one hundred fifty air-mile radius of the
26 wholesale or retail distribution point; or

27 (c) The transportation of such farm supplies is from

1 a wholesale distribution point of the farm supplies to a retail
2 distribution point of the farm supplies which is within a one
3 hundred fifty air-mile radius of the wholesale distribution point.

4 ~~(10)~~ (11) 49 C.F.R. 390.21 - MARKING OF SELF-PROPELLED
5 CMVS AND INTERMODAL EQUIPMENT shall not apply to farm trucks and
6 farm truck-tractors registered pursuant to section 60-3,146 and
7 operated solely in intrastate commerce.

8 ~~(11)~~ (12) 49 C.F.R. 392.9a - Operating Authority shall
9 not apply to Nebraska motor carriers operating commercial motor
10 vehicles solely in intrastate commerce.

11 ~~(12)~~ (13) No motor carrier shall permit or require a
12 driver of a commercial motor vehicle to violate, and no driver of a
13 commercial motor vehicle shall violate, any out-of-service order.

14 Sec. 7. Section 75-364, Revised Statutes Supplement,
15 2013, is amended to read:

16 75-364 The parts, subparts, and sections of Title 49 of
17 the Code of Federal Regulations listed below, or any other parts,
18 subparts, and sections referred to by such parts, subparts, and
19 sections, in existence and effective as of January 1, ~~2013,~~ 2014,
20 are adopted as part of Nebraska law and shall be applicable to
21 all motor carriers whether engaged in interstate or intrastate
22 commerce, drivers of such motor carriers, and vehicles of such
23 motor carriers:

24 (1) Part 107 - HAZARDOUS MATERIALS PROGRAM PROCEDURES,
25 subpart F-Registration of Cargo Tank and Cargo Tank Motor Vehicle
26 Manufacturers, Assemblers, Repairers, Inspectors, Testers, and
27 Design Certifying Engineers;

1 (2) Part 107 - HAZARDOUS MATERIALS PROGRAM PROCEDURES,
2 subpart G-Registration of Persons Who Offer or Transport Hazardous
3 Materials;

4 (3) Part 171 - GENERAL INFORMATION, REGULATIONS, AND
5 DEFINITIONS;

6 (4) Part 172 - HAZARDOUS MATERIALS TABLE, SPECIAL
7 PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE
8 INFORMATION, TRAINING REQUIREMENTS, AND SECURITY PLANS;

9 (5) Part 173 - SHIPPERS - GENERAL REQUIREMENTS FOR
10 SHIPMENTS AND PACKAGINGS;

11 (6) Part 177 - CARRIAGE BY PUBLIC HIGHWAY;

12 (7) Part 178 - SPECIFICATIONS FOR PACKAGINGS; and

13 (8) Part 180 - CONTINUING QUALIFICATION AND MAINTENANCE
14 OF PACKAGINGS.

15 Sec. 8. Section 75-366, Revised Statutes Supplement,
16 2013, is amended to read:

17 75-366 For the purpose of enforcing Chapter 75, article
18 3, any officer of the Nebraska State Patrol may, upon demand,
19 inspect the accounts, records, and equipment of any motor carrier
20 or shipper. Any officer of the Nebraska State Patrol shall
21 have the authority to enforce the federal motor carrier safety
22 regulations, as such regulations existed on January 1, ~~2013~~, 2014,
23 and federal hazardous materials regulations, as such regulations
24 existed on January 1, ~~2013~~, 2014, and is authorized to enter upon,
25 inspect, and examine any and all lands, buildings, and equipment
26 of any motor carrier, any shipper, and any other person subject
27 to the federal Interstate Commerce Act, the federal Department

1 of Transportation Act, and other related federal laws and to
2 inspect and copy any and all accounts, books, records, memoranda,
3 correspondence, and other documents of a motor carrier, a shipper,
4 and any other person subject to Chapter 75, article 3, for the
5 purposes of enforcing Chapter 75, article 3. To promote uniformity
6 of enforcement, the carrier enforcement division of the Nebraska
7 State Patrol shall cooperate and consult with the Public Service
8 Commission and the Division of Motor Carrier Services.

9 Sec. 9. Original sections 60-463 and 60-465, Reissue
10 Revised Statutes of Nebraska, section 75-362, Revised Statutes
11 Cumulative Supplement, 2012, and sections 60-462, 75-363, 75-364,
12 and 75-366, Revised Statutes Supplement, 2013, are repealed.

13 Sec. 10. Since an emergency exists, this act takes effect
14 when passed and approved according to law.

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